

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

SUNDRY, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 1:07cv988
	)	
XWAVE NEW ENGLAND CORP.,	)	
	)	
Defendant.	)	

MEMORANDUM OPINION

THIS MATTER came before the Court on the Motion by defendant XWAVE NEW ENGLAND CORP. to Compel Discovery (# 30), which the Court previously ORDERED GRANTED IN PART AND TAKEN UNDER ADVISEMENT IN PART by Order dated April 18, 2008.

UPON REVIEW of the initial Motion papers, as well as the Declaration of John A.C. Keith filed by plaintiff on April 24, 2008; the Supplemental Reply Memorandum filed by defendant on April 24, 2008; plaintiff's Response to New Matter, filed May 1, 2008; and the Declaration of Tom Sundstrom filed by plaintiff on May 6, 2008, the Court makes the following findings.

The Court finds that plaintiff did properly conduct the witness interviews in anticipation of litigation such that the results of those interviews are protected by the work product doctrine.

In addition, the Court finds that any subsequent disclosure by plaintiff of mere facts relating to those interviews did not

constitute a waiver of work product protection.

THEREFORE, the portion of defendant's Motion to Compel taken under advisement is hereby DENIED.

An appropriate Order shall issue.

ENTERED this 9th day of May, 2008.

/s/  
THERESA CARROLL BUCHANAN  
UNITED STATES MAGISTRATE JUDGE

Alexandria, Virginia